

ELY MOORE AND DANIEL WOODSON.

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MARCH 2, 1888.—Committed to the Committee of the Whole House and ordered to be printed.

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Mr. KERR, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 2263.]

*The Committee on Claims, to whom was referred the bill (H. R. 2263) for the relief of the estate of the late Ely Moore, deceased, and of Daniel Woodson, beg leave to report:*

From evidence submitted to the committee, Ely Moore, deceased, served as a register of the land office, in the Pawnee land district in Kansas, from April, 1857, to the time of his death, in January, 1860; and that Daniel Woodson served as a receiver of public moneys and disbursing agent in the Delaware land district in Kansas from August, 1857, to June, 1861.

That Congress, on the 18th of August, 1856, in the seventh section of "An act making appropriations for certain civil expenses of the Government," enacted—

That in the settlement of the accounts of registers and receivers of the public land offices, the Secretary of the Interior be, and he is hereby, authorized to allow, subject to the approval of Congress, such reasonable compensation for additional clerical services and extraordinary expenses, incident to said offices, as he shall think just and proper, and report to Congress all such cases of allowance, at each succeeding Congress, with estimates of the sum or sums required to pay the same. (Stat. at Large, vol. 11, p. 91.)

That on February 12, 1861, Moses Kelly, acting Secretary of the Interior, settled the account of the late Ely Moore, deceased, as register of said land office, for clerical services, amounting to \$11,874, and \$575 for office rent, under said act of Congress, allowing him only \$3,540 for clerical services and for office rent. The acting Secretary of the Interior, in his report to Congress on the day of settlement, says:

The item of rent, for which \$575 is claimed in this case for fifteen months, ending April 5, 1858, is recognized as cognizable, under the act of 1856, in cases where the extraordinary character or amount of the business of a land office required extraordinary accommodations.

The concluding part of the report says:

The register would probably have a claim similar to that of the receiver mentioned in my letter to you of the 26th January last.

That a certified copy of said letter or report of January 26, 1861, referred to in case of the receiver, is before the committee. Said receiver served in the same land district with Register Moore and at the same time, and said report to Congress shows a settlement of the account of

said receiver for office rent under the act of 1856. In that settlement he was allowed \$1,145 for office rent, which sum was appropriated by Congress in 1878 and paid to him.

The register may be entitled to more than \$575 for office rent, or to a sum equal to that allowed the receiver; but as the committee have no evidence that the register is entitled to a greater sum for office rent than that charged by him in his account rendered, therefore the committee find the amount to be appropriated for Register Moore to be as follows :

Clerk hire for one clerk, at \$4 per day (exclusive of Sundays), from the 1st of April, 1857, to January 27, 1860—885 days.....	\$3, 540. 00
Office rent for 15 months, ending April 5, 1858.....	575. 00
Total allowed for clerk hire and office rent.....	4, 115. 00

That the above sum, due to said Moore, has not been appropriated, nor paid to him. It was reported for appropriation during the Forty-ninth Congress by House bill 5470, which was not acted on by Congress.

That the report of the Acting Secretary of the Interior to Congress, on December 21, 1860, as required by said act of 1856, in the cases of John W. Whitfield as register and of Daniel Woodson as receiver, etc., in said district, shows that in the settlement of their accounts for clerical services, office rent, etc., under said act of 1856, he allowed them on said day \$12,857.92 for clerk hire, office rent, light, and fuel, and said sum was made up as follows :

Amount allowed Register Whitfield for clerk hire.....	\$7, 383. 00
Amount allowed Receiver Woodson for clerk hire.....	3, 150. 00
Total amount allowed both officers for clerk hire.....	10, 533. 00
Amount allowed Register Whitfield for office rent, as per voucher No. 3.....	845. 80
Amount allowed Register Whitfield for fuel and light, as per voucher No. 2..	316. 66
Amount allowed Receiver Woodson for office rent, as per voucher No. 1.....	845. 80
Amount allowed Receiver Woodson for fuel and light, as per voucher No. 4..	316. 66

Total sum allowed both officers for clerk hire, office rent, etc.....	12, 857. 92
Amount appropriated February 19, 1861, to pay for clerk hire (12 Stat., 133) ..	10, 533. 00

Balance of sum allowed on settlement for office rent, etc., not yet appropriated.....	2, 324. 92
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That no appropriation has yet been made of the sum of \$2,324.92, to pay said officers the amount due to them under the said act of 1856, for office rent, etc. During the Forty-ninth Congress, H. R. bill No. 5470, appropriating \$1,162.46, was recommended for appropriation by the Committee on Claims, but it was not acted on by Congress.

That the Acting Secretary of the Interior, in his report to Congress, on December 21, 1860, in these cases, says :

The register and receiver for the Delaware land district, Kansas, appear to have proceeded in this matter according to the law of August 18, 1856. Their expenses for clerk hire, office rent, etc., during the three years mentioned, have amounted to \$12,857.92, or a little over \$4,000 per year; which is regarded as reasonable, in view of the unusually large quantity of land sold and located at that office during this period of time.

Your committee are of the opinion that Ely Moore, deceased, late register, is entitled to an appropriation of the sum of \$4,115, and that Daniel Woodson, late receiver, is entitled to an appropriation of the sum of \$1,162.46, to be passed to their credit, respectively, on the books of the Treasury.

That it appears from a certified copy of the report of the Commissioner of Indian Affairs, made in 1885, in the cases of Ely Moore and

of Daniel Woodson, as special agents that Ely Moore, deceased, was appointed a special agent to sell a portion of the Indian trust lands, under the Delaware and Wea, etc., treaties of 1854, and that Daniel Woodson was also appointed a special agent to sell a portion of the same Delaware Indian trust lands, under said treaties of 1854; that each of said special agents claimed and charged 1 per cent. commissions on the moneys received from the sales of said trust lands, and that 1 per cent. commissions was allowed them, under the treaties of 1854, as a part of the expenses on only a part of the moneys.

That the Supreme Court of the United States, on March 3, 1854, in construing the treaties of 1854, decided, in case No. 216 of March 3, 1884 (110 U. S. Rps., p. 688), that these treaties of 1854 allowed 1 per cent. commissions on all of the moneys received from the sales of these trust lands, together with the other necessary expenses of the sales.

That said decision of the Supreme Court of the United States of March 3, 1884, was rendered in the case of one of the four special agents who were appointed to sell said trust lands under said treaties of 1854, and that said Moore, deceased, and said Woodson are two of said special agents, which said report of the Commissioner of Indian Affairs shows are equally entitled to 1 per cent. commissions on all of the moneys received by them, respectively, from the sales of said trust lands.

That said report further shows that said trust moneys were loaned out at 5, 6, and 7 per cent. interest, payable semi-annually; therefore any of these trust funds remaining due to said special agents should be paid to them, together with the interest which has accrued on their moneys.

That after the said decision of the Supreme Court of the United States on March 3, 1884, was made, said special agents applied for further adjustments of their accounts for the expenses of the sales of said trust lands, claiming the additional commissions and such other expenses of said sales which had not been allowed and paid to them and which are yet due to each of them under said treaties as construed by the Supreme Court of the United States on March 3, 1884. The accounting officers of the Treasury refused, in 1886 and in 1887 to further adjust or settle their accounts under said treaties as construed by said court.

That under no existing act of Congress can either of said special agents institute any suit to recover the principal and interest which has accumulated on the moneys withheld by the trustee and yet due to them under said treaties as construed by said court.

Your committee are of the opinion that said special agents should not be subjected to the expense and delay of being compelled to bring suits against the United States as trustee of said funds to recover the moneys yet due to each of them; and as under said treaties of 1854 only the net proceeds of the trust moneys received from the sales of said trust lands belong to and can be legally or justly paid over to said Indians under said treaties and under the act of Congress of January 9, 1837 (5 Stat., p. 135), it is indispensably necessary, in order to protect the interests of the United States as trustee of said funds, that the accounts of these special agents applying for relief by the second section of this bill (H. R. 2263) should be further and finally adjusted as provided for in said section of said bill.

They therefore recommend the passage of the bill.